

**LOAN PROGRAM DESCRIPTION  
FOR  
GEORGIA DEPARTMENT OF COMMUNITY AFFAIRS**

**CHAPTER 110-19-1  
DOWNTOWN DEVELOPMENT REVOLVING LOAN FUND (DD RLF)**

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**110-19-1-.01 Purpose**

The purpose of the Downtown Development Revolving Loan Fund (DD RLF) is to assist cities, counties and development authorities in their efforts to revitalize and enhance downtown areas by providing below-market rate financing to fund capital projects in core historic downtown areas and adjacent historic neighborhoods where DD RLF will spur commercial redevelopment.

*Authority O.C.G.A. Sec. 50-8-3, 50-8-5 & 50-8-8*

**110-19-1-.02 Eligible Applicants**

- (1) Eligible applicants under this program shall be municipalities with a population of 100,000 or less, counties with a population of 100,000 or less, and development authorities proposing projects in municipalities or counties with a population of 100,000 or less. Population estimates shall be based on the most recent U.S. Census Bureau population estimates. Once an eligible applicant exceeds a population of 100,000, it shall remain eligible for a period of one year. All applicant communities must meet the criteria outlined in rule section 110-19-1-.02 (4) and be in compliance with the state requirements regarding comprehensive planning and reporting, the Report of Local Government Finances and, when applicable, local government authority registration.
- (2) If the applicant is not the municipality in which the proposed activities will take place, then the application must include a resolution of support and commitment of cooperation from the applicable local government.

- (3) Eligible applicants must apply for loans under this program in a format and manner prescribed by the Department of Community Affairs (hereafter referred to as the Department). Loan applications may be submitted in writing to the Department at:

Georgia Department of Community Affairs  
Downtown Development Revolving Loan Fund Program  
Community Development & Finance Division  
60 Executive Park South, NE  
Atlanta, Georgia 30329-2231

- (4) Eligible applicants must have an existing downtown commercial area that meets two or more of the following characteristics:
- (a) A significant number of commercial structures fifty (50) years old or older;
  - (b) Empty storefronts or documentation of an immediate threat to a downtown's commercial viability;
  - (c) A feasibility/market analysis identifying the businesses/activities which can be supported in the downtown area and a plan for attracting or retaining such businesses/activities;
  - (d) A downtown master plan and/or strategic plan designed to guide public or private investment;
  - (e) Commitment(s) for private/public funding to support downtown development activities (from banks, downtown development authorities, local businesses, other government agencies, etc.) enhancing, directly or indirectly the activity(s) to be financed with the Department's loan.

- (5) The forms provided will include guidelines and other necessary or helpful information.

*Authority O.C.G.A. Sec. 50-8-2*

**110-19-1-.03 Fund Availability.**

- (1) Loan funds available to the Department for this program will in turn be made available for application throughout the fiscal year and will be reviewed based upon the criteria provided in rule section 110-19-1-.05.
- (2) The Department's concentration of assets (loans) in any one community is limited to 15% of the Downtown Development Revolving Loan Fund's total assets. However, under certain circumstances the Commissioner of the Department may authorize a waiver of this policy; provided that the concentration of assets in the affected community does not exceed 20% of the Downtown Development Revolving Loan Fund's total assets.
- (3) In the event of a natural disaster or other extraordinary event, the Commissioner of the Department may authorize a waiver of the concentration of assets policy.

#### **110-19-1-.04 Eligible Activities.**

- (1) All applicants for DD RLF projects must submit an application to the Department in a format prescribed by the Department. Applicants must demonstrate that they have a viable downtown development project and clearly identify the proposed uses of the loan proceeds. Eligible use of the funds include such downtown development projects as: real-estate acquisition, clearance, development and redevelopment; construction, reconstruction and rehabilitation of public and private infrastructure and facilities; on a limited basis as defined by the Department, purchase or lease of equipment or other assets; loans to sub-recipient organizations to carryout eligible activities; when approved by the Department, leaseback or sale of project assets; and other downtown revitalization activities which the applicant or other sub-recipients may be authorized to undertake through its enabling legislation. Typically, DD RLF funds will provide only the permanent financing on a project. The interim or construction financing on a project are normally arranged by the Applicant or sub-recipient borrower once the project is approved. The use of DD RLF funds for project administration purposes, working capital or program operation, refinance of permanent loans or the establishment of local Revolving Loan Funds (RLFs) will generally not be considered eligible activities.
- (2) All activities must be within the downtown area as defined by the Department. Generally, the downtown area of a municipality is the core central business district primarily consisting of commercial structures fifty (50) years or older and adjacent neighborhoods consisting of historic residential structures that are zoned for commercial or government uses.
- (3) The eligible mechanisms for making funds available under this program are:
  - (a) a loan from the Department to the municipality, county, downtown development authority or other local development authority who uses the funds directly to carry out the approved eligible activity(s); or
  - (b) a loan from the Department to a downtown development authority or other local development authority designated by the applicant who implements the approved eligible activity(s) or who in turn contracts with or loans the funds to a DCA approved sub-recipient to carry out the approved eligible activity(s).
  - (c) other loan mechanisms may be used at the discretion of DCA, including using secondary market transactions to enhance fund liquidity.
- (4) Regardless of the mechanism, the ultimate financial responsibility to repay the loan funds and meet any contractual obligation to the Department rests with the municipality, county, downtown development authority or other local development authority as applicable. This requirement will generally require the establishment of an intergovernmental contract(s) among the various parties which insures to the satisfaction of the Department that all obligations can be met.

- (5) Although ultimate financial responsibility to repay the loan funds rests with the municipality, county, downtown development authority or other local development authority, the intergovernmental contracts referred to in item 110-19-1.04 (3) will specify the responsibilities of all parties, and may, in the event of default, limit the Department's recourse against the municipality, county, downtown development authority or other local development authority. Such limitations may include recourse only to project assets, limited guarantees by the municipality, county, downtown development authority or other local development authority, or requirements for legal assistance and other cooperation during foreclosure proceedings.
- (6) The Department reserves the right to require immediate recapture of some or all of the loan funds or to raise the interest rate on the loan funds upon transfer of project assets to an entity other than the approved recipient or sub-recipient (unless specifically approved by the Department) or upon any event that violates state law, the public purpose of the loan program, any of the loan conditions, or any intergovernmental contract provision. All recaptured funds must be returned to the Department.

*Authority O.C.G.A. Sec. 50-8-8*

#### **110-19-1-.05 Review of Loan Applications**

All applications received from applicants will be reviewed to determine the merit of the applications and of the proposed uses of funds. In determining whether an applicant shall receive a loan, the following criteria will be considered:

- (1) Each application will be reviewed based upon an analysis of the proposed project's potential enhancement of downtown development opportunities, creditworthiness, overall project feasibility, project impact, and soundness of the proposed strategy. The analysis will include but is not limited to such factors as: impact on the community's tax base; degree of local commitment; consistency with local development plans, goals and objectives; project readiness; project feasibility; reasonableness of cost estimates; elimination of blighting influences; total private capital investment; number of jobs created and/or retained; historic preservation impact and potential state and regional impact. DD RLF financing is normally used to provide the necessary gap financing for a project or the low-cost financing that will enable a project to move forward.
- (2) The Department expects that all projects will substantially meet *The Secretary of the Interior's Standards for the Treatment of Historic Properties, Revision 1992*. The Department may make exceptions to this requirement if meeting the *Standards* will not allow a project to obtain a market rate of return or if other public benefits and other considerations significantly outweigh the public costs of noncompliance. Evidence of compliance with the *Standards* may include approval of proposed rehabilitation plans by the State Historic Preservation Office, written comments from the applicable Regional Historic Preservation Planner, a certificate of appropriateness

or other documentation from an active, bona fide local historic preservation commission, or other documentation acceptable to the Department.

- (3) In its review of applications, the Department may, at its discretion, consult with other individuals or agencies as appropriate for the purpose of receiving information and/or advice.
- (4) The criteria listed in this rule are designed to assist the Department in making its decision and provide prospective applicants with guidance as to the factors that their applications need to address in order to be competitive. Additional factors may be considered depending on the nature of particular projects, their relative merit compared to competing proposals, and the availability of funding at the time of application. The decisions made by the Department shall be final and conclusive.

*Authority O.C.G.A. Sec. 50-8-8*

#### **110-19-1-06 Awarding of Loan Funds.**

- (1) The loan limit will be no more than \$250,000 per project. At its discretion, the Department may decide to loan an amount less than the amount requested in the application. The loan limit may also, at the discretion of the Commissioner of the Department, be raised to assist projects that exhibit exceptional needs or public benefits.
- (2) Once selected for funding, applicants will be notified by the Department through a Statement of Loan Award incorporating by reference standard general conditions and any special conditions that the Department deems to be necessary or appropriate and any loan agreement(s) and/or intergovernmental contract(s) that may be used to implement the proposed project.
- (3) The standard general conditions and special conditions (if any) shall be incorporated into any loan agreement and/or intergovernmental contract that may be executed and used to implement a transaction between the Department and the applicant or the applicant and its implementing agency or sub-recipient(s).
- (4) The applicant must obtain the Department's prior approval for any subordinate intergovernmental agreements, loan agreements, leases, or any other instrument that may be used to implement an activity financed in whole or part by funds authorized under this regulation.
- (5) Applicants will have up to thirty (30) days from the date of the commitment letter to accept the loan. If the applicant fails to accept the loan and all attached conditions within the required period, the Department may unilaterally withdraw its commitment.

*Authority O.C.G.A. Sec. 50-8-8*

## **110-19-1-.07 Statement of Conditions**

In addition to the specific certifications made by the applicant in accepting the commitment letter and in executing the loan agreement and/or intergovernmental contract, the recipient further certifies or acknowledges that:

- (1) No applicable state laws, rules, regulations, or applicable local ordinances shall be violated in carrying out the project and expending DD RLF loan proceeds.
- (2) The recipient, any development authorities or sub-recipients are authorized under the laws of the state to carry out the project and activities that are the subject of this financing and the proposed expenditure of funds are in accordance with all applicable legal requirements.
- (3) No real or apparent conflict of interest shall be engaged in by any official, employee or agent of the recipient and sub-recipient(s) and any member of their immediate family, their partners and any organization which employs, or is about to employ any of the above. This prohibition prohibits both the solicitation and acceptance of gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements.

In addition, none of the persons listed above who exercise or have exercised any functions or responsibilities with respect to the activities supported by the DD RLF or are in a position to participate in a decision making process or gain inside information may have a financial interest or benefit from the DD RLF supported activities, either for themselves or for those with whom they have family or business ties, during their tenure or for one year thereafter.

It is the responsibility of the recipient to disclose to the Department any relationship that might create a real or apparent conflict of interest as soon as the recipient becomes aware of it and to request guidance and mitigation procedures from the Department. If a conflict of interest exists, the Department may make an exception to this requirement provided state law has not been violated and provided that the recipient or sub-recipient follows the Department's mitigation procedures. Some conflicts of interest may not be able to be mitigated depending on project status, state law, and the Department's judgment concerning the seriousness of the conflict. Because conflicts can occur at any phase of a project, including the application phase, recipients and sub-recipients are encouraged to discuss possible conflicts with the Department as early as possible in the application process.

- (4) The recipient's accounting records of the DD RLF loan funds shall be maintained in a manner consistent with generally accepted government accounting standards.
- (5) The recipient's independent financial audit must be conducted in accordance with generally accepted government auditing standards and must include the DD RLF

funds. A Source and Application of Funds Schedule and a Project Cost Schedule for all DD RLF funds must be included in the audit report.

- (6) Because the State of Georgia's Environmental Policy Act (O.C.G.A 12-16) is not generally applicable to land disturbing or to land acquisition activities of local governments and authorities unless state government assistance totals more than fifty (50%) percent of the total project cost or amounts to more than \$250,000, the Act is not expected to apply to many DD RLF projects. However, it is the recipient's responsibility to determine the law's applicability to the specific project and to meet all of its requirements.
- (7) Loan funds shall be disbursed by the Department in accordance with the provisions of the loan agreement and/or intergovernmental contract. Those provisions may vary depending on each project's particular circumstances. In general, the Department will seek to match disbursements with actual need for funds and to minimize the existence of idle DD RLF funds at the local level.
- (8) The Department may make reviews and audits of the project including on-site reviews as may be necessary or appropriate to implement the program and insure the requirements contained in regulation, loan agreement and/or intergovernmental contract are met. In the case of noncompliance and at its sole discretion, the Department shall take such actions as it deems appropriate to prevent a continuance of the deficiency, mitigate any adverse effects or consequences and prevent a recurrence. The Department shall establish specific sanctions and remedies for borrower's and/or contractor's noncompliance on a case-by-case basis.
- (9) The recipient may be required to submit annual progress reports to the Department in a format prescribed by the Department. Failure to submit timely and acceptable reports may result in a request for immediate repayment of all DD RLF funds from the recipient by the Department or in other sanctions. The format and information required in any annual progress reports will be specified in the Department's award documents.
- (10) Loan payments shall be due to the Department in accordance with the terms and provisions of the loan agreement and/or intergovernmental contract and must be sent to:

DD RLF Program Manager  
Georgia Department of Community Affairs  
60 Executive Park South, NE  
Atlanta, Georgia 30329-2231

*Authority O.C.G.A. Sec. 50-8-8*